

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)	
)	
Revision of Procedures Governing Amendments)	MB Docket No. 05-210
To FM Table of Allotments and Changes)	RM-10960
Of Community of License in the Radio Broadcast)	
Services)	
)	
To: The Secretary		

COMMENTS

New World Radio, Inc. ("New World"), the licensee of Station WUST(AM), Washington, D.C., by its attorneys, hereby submits these Comments in the above-referenced rule making proceeding concerning streamlining of the Commission's procedures governing amendments to FM Table of Allotments and changes of community of license in the radio broadcast services. *See Notice of Proposed Rule Making*, FCC 05-120, released June 14, 2005 ("NPRM"). New World limits these Comments to the following two issues: (1) should the Commission maintain its current policy prohibiting the removal of an existing Station representing a community's sole local transmission service; and (2) should the Commission maintain its current policy requiring community of license major changes in the AM service to be filed through auction window procedures, or should it permit such changes by minor modification applications. In both instances, New World submits that retention of the current policy best serves the public interest. In support thereof, New World states as follows.

First, with respect to the Commission's policy prohibiting the removal of an existing Station representing a community's sole transmission service, New World submits that retention of this policy best serves the public interest and is in full accord with the congressional directive,

under Section 307(b) of the Communications Act, that the Commission provide a fair, efficient and equitable distribution of radio service. *See NPRM* at ¶¶ 40-46; 47 U.S.C. § 309(b). Every community of license associated with an existing Station has already been the subject of a Section 307(b) determination before the Commission as to why that allotment should have been made. In other words, every such community has been adjudged a bona fide community pursuant to the Commission's community criteria and the provision of a radio license to and the construction of a Station in the community has been deemed to serve the public interest. Such determinations are the product of careful, deliberative and well-established Commission procedures. Given the weight of these determinations, New World sees no merit in claims that permitting the removal of a community's sole existing Station could better serve the public interest.

For example, First Broadcasting Investment Partners, LLC ("First Broadcasting") asserts that the Commission's guiding principle with respect to community changes for existing Stations should be "to provide the most people with a first local service," and that the public interest served thereby trumps any public interest benefits of retaining a community's sole operating transmission service to promote continuity of service. *NPRM* at ¶ 41 (quoting First Broadcasting Petition at 15). New World disagrees. There are ample opportunities to provide communities deserving of a local reception service with first, and probably multiple, reception services, without resorting to the removal of the sole existing transmission service from a community. Smaller communities in particular identify themselves with their local services and view their community radio Stations as an important local resource. First Broadcaster's proposal fails to recognize that a local transmission service and the obligations that go with it play an important role in the life of a community and should not be removed as easily as a piece from a game

board. Absent a compelling reason to place a numbers game over the retention of sole local transmission services in the hierarchy of public benefits, this proposed change is unacceptable.

As many commenters in the proceeding below pointed out, the primary purpose of this proposal by First Broadcasting is to facilitate the migration of existing facilities from underserved rural areas to more lucrative, but already well-served, urban and suburban markets. *See NPRM* at ¶ 43, n 86, n 87. Obviously, as existing Commission policy indicates, the migration of service from rural areas to urban markets contravenes the public interest requirements of Section 307(b). *See, e.g., Huntington Broadcasting Co. v. FCC*, 192 F. 2d 33 (D.C. Cir. 1951); *RKO General, Inc. (KFRC)*, 5 FCC Rcd 3222 (1990); *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988). Accordingly, New World submits that First Broadcasting and its supporters have failed to provide any valid justification for abandoning the Commission's existing policy prohibiting the removal of a community's sole operating transmission service.

Next, with respect to the proposal to permit the filing of AM Station community of license changes by minor modification applications, New World submits that the Commission's existing policy of requiring AM community of license changes to be filed during an auction window, and subjected to competing mutually exclusive applications, better promotes the fair treatment of parties and the equitable distribution of radio service. *See NPRM* at ¶¶ 14-29. The current auction window procedures establish a level playing field among all interested parties insofar as all major change applicants are required to file at the same time, face similar risks of mutual exclusivity with other applications and are afforded equal opportunities to try and resolve any mutual exclusivities through settlements or engineering solutions. While resolving mutually exclusive applications can result in delays, as commenters below pointed out, the purposes underlying Section 307(b) should not be sacrificed for the sake of expediency. *See NPRM* at ¶

23. The current come-one-come-all auction window process preserves an important element of fair play among competing parties. The procedural integrity provided by filing windows in turn helps to ensure that the distribution of AM service reflects the Commission's policy goals instead of the gamesmanship of interested parties. Allowing parties to file AM Station community of license changes in minor modification applications would result in a piecemeal, one-party-at-a-time approach that would be susceptible to such gamesmanship.

In fact, if this proposal is adopted, New World foresees a quick rush to file so that parties desiring to change their communities of license do so before it is too late. Instead of allowing for parties to act rationally and make their decisions based on real needs, this proposal will force parties to act before they lose their chance. Again, the public benefits called for under Section 307(b) will be forfeited. Accordingly, New World submits that the Commission's existing auction window procedures for filing AM Station community of license changes are better suited to the fair and equitable distribution of AM service than the proposed minor modification approach.

WHEREFORE, for the foregoing reasons, New World Radio, Inc. requests that the Commission (1) maintain its policy prohibiting the removal of an existing Station representing a community's sole transmission service; and (2) maintain its policy requiring community of license changes in the AM service to be filed through auction window procedures.

Respectfully submitted,

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